

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Brenda Dawson Battle,
Plaintiff,
vs.

Civil Action No. 3:22-cv-2138-CMC

Atty Creel; Judge Griffin; Judge Curtis; Mark
Stuckey; Ashley Ackerman; Jimmy Lowery,
Defendants.

ORDER

This matter is before the court on Plaintiff's Complaint alleging she was illegally evicted from her home. ECF No. 1. Plaintiff claims she was disabled and was discriminated against because of her race. However, she provides no other facts about the dispute or the named defendants.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On July 20, 2022, the Magistrate Judge issued a Report recommending this matter be summarily dismissed without prejudice and without issuance and service of process due to lack of federal jurisdiction. ECF No. 8. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if she failed to do so. Plaintiff filed objections on August 8, 2022. ECF Nos. 11.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made

by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

The Report recommends Plaintiff's federal claims be dismissed because federal jurisdiction is lacking, as there is not complete diversity and the Complaint does not allege a claim arising under the Constitution or federal statutes. ECF No. 8 at 3-4. Plaintiff has filed objections, arguing she was evicted and filed lawsuits and appeals to no avail. ECF No. 11. She states her claims as "disabled and remission . . . 1st Amendment Freedom of Speech. Plaintiff's lawsuit is base solely on Plaintiff's Remission, the defendants Discrimination and Racially Motivated against Plaintiff's incurable disease osteoarthritis and rheumatoid arthritis." *Id.* at 1 (errors in original). In a sworn statement, she notes "Attorney Creel was wrong for withholding a court ordered affidavit with Plaintiff's name . . . and it was truly wrong for attorney for forfeit" and he also lied under oath to her, his client. *Id.* at 2. She alleges "Judge Griffin was wrong to order Plaintiff to pay rent to courts, illegally evict Plaintiff while full least rent paying to court." She alleges these actions were racially motivated. *Id.* She also appears to allege she was told to move into a new apartment but was denied an inspection and then was allowed to view another apartment instead of the one on which she made a deposit. *Id.* at 4. Finally, she alleges "the Defendants maliciously discriminated against the Plaintiff. The Defendants objective 'get her out' by illegally forcing Plaintiff. The Defendant, Attorney Creel, Judges, Curtis Griffin, even Stuckey knew they were unlawfully evicting Plaintiff successfully the Defendants succeeded in their plan, force out without legally binding proof." *Id.* at 5 (errors in original).

The court agrees with the Magistrate Judge that Plaintiff's filings do not reveal a basis for subject matter jurisdiction over her claims, as the parties are not diverse, and this appears to be an eviction matter. Although Plaintiff references the First Amendment and racial discrimination, as the Magistrate Judge noted, "the mere assertion in a pleading that the case is one involving the construction or application of the federal laws does not authorize the District Court to entertain the suit[,] nor does federal jurisdiction attach on the bare assertion that a federal right or law has been infringed or violated or that the suit takes its origin in the laws of the United States." *Burgess v. Charlottesville Sav. & Loan Ass'n*, 477 F.2d 40, 43-44 (4th Cir. 1973). After *de novo* review of the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff's Complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
August 24, 2022